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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 JOHN E. MINES, JR.,

8 Plaintiff,

9 v.

10 MICHAEL OBENLAND,

11 Defendant.

NO: 16-CV-0429-TOR (MKD)

ORDER ADOPTING REPORT AND
RECOMMENDATION
TO DISMISS HABEAS PETITION

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14 BEFORE THE COURT is Petitioner John E. Mines, Jr.'s petition for writ of
15 habeas corpus pursuant to 28 U.S.C. § 2254 (ECF Nos. 1; 7), Respondent Michael
16 Obenland's Response (ECF No. 13), which the Court has construed as a motion to
17 dismiss, and the parties' supplemental, post-stay briefing (ECF Nos. 26; 27; 28).
18 Petitioner, a prisoner confined at the Monroe Correctional Complex, Monroe, WA,
19 filed the Petition *pro se*, but is now represented by attorney Michael C. Kahrs.

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ORDER ADOPTING REPORT AND RECOMMENDATION
TO DISMISS HABEAS PETITION ~ 1

1 The matter was submitted to the Honorable Magistrate Judge Mary K.
2 Dimke, who issued a Report and Recommendation (ECF No. 29). The R&R
3 recommended denying the habeas petition as barred by procedural default and
4 allowed the parties to submit written objections by December 13, 2017. Petitioner
5 filed an objection (ECF No. 31) reiterating previously made arguments (*e.g.*
6 whether the state court properly denied review on procedural grounds) that fail to
7 address the grounds upon which the R&R was decided (*i.e.* the procedural default
8 doctrine). After reviewing all filings and liberally construing Petitioner's
9 submissions in the light most favorable to him, the Court adopts the Report and
10 Recommendation (ECF No. 29) and **DENIES** Petitioner's Writ.


11 **ACCORDINGLY, IT IS HEREBY ORDERED:**

- 12 1. The Court **ADOPTS** the Report and Recommendation (ECF No. 29) in
13 full.
- 14 2. Petitioner John E. Mines, Jr.'s Petition for Writ of Habeas Corpus (ECF
15 Nos. 1; 7) is **DENIED**.
- 16 3. A Certificate of Appealability is **DENIED**.
- 17 4. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of
18 this Order would not be taken in good faith and would lack any arguable
19 basis in law or fact. Petitioner's *in forma pauperis* status is hereby
20 **REVOKED**.

1 The District Court Executive is directed to enter this Order and Judgment
2 accordingly, furnish copies to the parties, and **close** the file.

3 **DATED** December 15, 2017.




THOMAS O. RICE
Chief United States District Judge